

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

VAN A. LUPO,

Plaintiff,

v.

BANKAMERICA CORPORATION, &
SHERYL LUPO

Defendant.

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)
) C.A. No. 04-40202-FDS
) Hon. F. Dennis Saylor IV

) Complaint Filed: September 29, 2004
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**DEFENDANT BANK OF AMERICA, N.A. (USA)'S
ASSENTED-TO MOTION FOR LEAVE TO FILE ITS
VERIFIED ANSWER TO THE AMENDED COMPLAINT,
AMENDED COUNTERCLAIM AND CROSS-CLAIM AGAINST SHERYL LUPO**

Pursuant to Federal Rules of Civil Procedure 15(a) and 13, the Defendant/Plaintiff-In-Counterclaim, Bank of America, N.A. (USA) ("the Bank"), moves this Court to file: (i) an answer to Plaintiff/Defendant-In-Counterclaim, Van A. Lupo's ("Van Lupo"), amended complaint, (ii) an amended counterclaim against Van Lupo, and to bring a cross-claim against the Co-Defendant, Sheryl Lupo. As grounds for this Motion, the Bank states:

1. On or about October 5, 2004, Plaintiff filed a Complaint in this matter;
2. After the Bank was served with the matter in May 2005, the Bank filed its Answer and Counterclaim on June 27, 2005;
3. On August 24, 2005, the Court after a scheduling conference, set forth a discovery schedule and other deadlines;
4. On October 31, 2005, Plaintiff filed an Assented-to Motion to Amend his Complaint to add Sheryl Lupo, his ex-wife, as a defendant in this action.

5. On February 17, 2006, the Court granted Plaintiff's Assented-to Motion to Amend. Thereafter, Plaintiff filed his Amended Complaint, which alleged additional causes of action against Sheryl Lupo.

6. On February 16, 2006, the Bank and Plaintiff filed an Assented-to Motion to Amend the Court's August 23, 2005 scheduling order based on the addition of Sheryl Lupo to this action.

7. On March 15, 2006, the Court extended the deadlines set down in its August 23, 2005 Order, granting the Parties, *inter alia*, until May 26, 2006 to amend their pleadings, and until October 27, 2006 to complete discovery.

8. The Bank now seeks leave to file its Verified Amended Answer, Amended Counterclaim and Cross-Claim to: (i) answer the additional counts set forth in Plaintiff's Amended Complaint; (ii) amend its Counterclaim to assert additional causes of action against Van Lupo; and (iii) assert cross-claims against Defendant Sheryl Lupo. The Bank's proposed Verified Amended Answer, Amended Counterclaim And Cross Claim is attached as Exhibit A.

9. Plaintiff/Defendant-in-Counterclaim Van Lupo has assented to this Motion.

WHEREFORE, the Defendant/Plaintiff-In-Counterclaim, Bank of America, N.A. (USA), moves this Court for Leave to File its Amended Answer and Amended Counterclaim against the Plaintiff, Defendant in Counterclaim, Van A. Lupo, and to assert its Cross-claim against the Cross-claim Defendant Sheryl Lupo.

BANK OF AMERICA, N.A. (USA)

By its attorneys,

/s/ Christopher A. Edwards

E. Macey Russell (BBO #542371)

Christopher A. Edwards (BBO #640758)

Choate, Hall & Stewart LLP

Two International Place

Boston, MA 02110

Tel.: (617) 248-5000

Dated: March 17, 2006

CERTIFICATE OF SERVICE

I, Christopher A. Edwards, attorney for the Defendant, Bank of America, N.A. (USA), hereby certify that a copy of the above document was this date served regular mail upon: Jill C. Shedd, Esq. Law Office of Jill Shedd & Associates, 929 Massachusetts Avenue, Level 01 Cambridge, MA 02139, and by regular mail and constable upon Ms. Sheryl Lupo, c/o Shirley Stroner, 1081 Aloha Drive, Huntington Beach, CA 92646.

/s/ Christopher A. Edwards

Christopher A. Edwards

Dated: March 17, 2006